



Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Robert L. Morgan
State Engineer

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Southern Area
130 North Main Street
P.O. Box 563
Richfield, Utah 84701-0563
801-896-4429

RECEIVED

MAY 30 1989

WATER RIGHTS
SALT LAKE

May 25, 1989

CERTIFIED MAIL - RETURN
RECEIPT REQUESTED

Gary Dalton
195 South 100 West
Circleville, Utah 84723

Dear Mr. Dalton:

During a recent field trip, I noticed a large tract of land being irrigated which is located south and east of Circleville. This land is located within the W1/2 of Section 1, T31S, R4W, SLB&M and is being irrigated with water from Loss Creek. I have reason to believe you are the operator of this land. On page 22 of the Cox Decree, J.C. Whittaker and Arthur Whittaker were awarded all of the waters of Loss Creek for use during the entire year. The plats that were prepared for the decree indicate this water was used to irrigate a total of 51.9 acres of land within the NE1/4 of Section 2, T31S, R4W, SLB&M. Therefore, this is the limit of the right and use of the water. From my observation, you are irrigating in excess of 240 acres of land with the water from Loss Creek.

On July 14, 1988, Mr. Kirk Forbush of this office sent a letter to Matthew Whittaker in Circleville indicating our concern over this same problem. Apparently, Matthew, Raymond, Gale, Evan and Mack Whittaker own the property. Shortly after this letter was sent, Mr. Forbush met with one of the Whittakers in Circleville to discuss this problem.

As it exists, the water right from Loss Creek is limited to 51.9 acres of irrigation. Anything over this amount is an enlargement of the water right and in the opinion of the State Engineer will adversely affect and diminish water rights of downstream users.

Therefore, this letter will serve as the final official notice that unless you immediately cease to irrigate all but 51.9 acres of land from Loss Creek legal action will be taken.

Gary Dalton
May 25, 1989
Page -2-

I would be happy to discuss this matter with you should you have any questions.

Sincerely,



M. Stanley Adams, P.E.
Area Engineer

CC: Ray Owens, Sevier River Commissioner, Sevier, UT
Virge Brown, A to L Users, Annabella, UT
Thorpe Waddingham, DMADC Co's, Delta, UT
~~Lee Sim, Division of Water Rights, SLC, UT~~
John Maybe, Attorney Generals Office, SLC, UT
Matthew Whittaker, Circleville, UT
Gale Whittaker, Circleville, UT

Enclosure
MSA/clw